PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	JOHNSON, JENNIFER et al.	
Serial No.	:	10/830,144	Examiner: V. NGUYEN
Filed	:	April 21, 2004	Group Art Unit: 3734
For	:	TOURNIQUET ARTICLE	

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner of Patents
Washington, D.C. 20231

Sir:

In response to the Office Action mailed September 28, 2006 in connection with the referenced application, Applicants provides the following traversal.

The Office Action asserts that the present application is directed to two separately classified inventions. Namely, invention I defined by claims 1-4 and 18-20 drawn to a tourniquet article including a base, a handle with an aperture, and a strap. This invention was asserted to be classified in class 602, subclass 5. The Office Action defined the second invention (invention II) as being embodied in claims 5-17 drawn to a tourniquet article including a base, a handle with an aperture and a strap. This invention was asserted to be classified in class 602, subclass 5. The Office Action further alleged that inventions I and II are related as combination and subcombination.

Applicants assert that restriction is improper in this case for the following reasons: 1) there is no combination/subcombination in fact, 2) there is no legitimate reason for insisting on restriction.

The Office Action asserts that invention I is a subcombination and invention II is a combination. This assertion is erroneous. A combination is an organization of which a subcombination is a part. See MPEP 806.05(a). Claim 5 is representative of invention II and claim 1 is representative of invention I. Claim 5 includes the following elements:

a base, a handle and a strap. Claim 1 includes the following elements: a base, a cap, a strap, a buckle, a handle and a ring. As is readily apparent claim 1 does not form a part of claim 5 and claim 5 does not form a part of claim 1. Both claims are directed to a tourniquet article and both claims are combination claims, albeit of different scope. This alone mandates withdraw of the restriction requirement.

Turning to the issue of burden, there is no burden imposed upon the office in examining inventions I and II in the same application. The Office Action states that invention I is classified in class 606, subclass 203 which is defined as:

> "Subject matter wherein the pressure applying member is a releasably constrictable band or strap-like means which totally encircles the body portion and which is applied by effectively shortening the band or stretching the band to produce the force to temporarily arrest the flow of blood in that portion of the body."

The office action further alleges that invention II is classified in class 602, subclass 5 which is defined as:

> "Subject matter comprising an immobilization appliance which tends to urge a bandaged body portion into a natural or normal orientation."

Applicant asserts that the classification of invention II is clearly erroneous. Invention II is directed to a tourniquet article, like invention I. Nothing in the claims of invention II indicate that it should be used for immobilization tending to urge a bandaged body portion into a natural or normal orientation. There is no basis in fact to classify invention II in class 602, subclass 5. Properly classified, inventions I and II should both be classified as tourniquets in class 606, subclass 203. As such, there is no additional burden on the office to examine inventions I and II in the same application. Accordingly, the restriction requirement must be withdrawn.

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In view of the foregoing, it is asserted that the application is in condition for examination. A prompt examination on the merits is respectfully requested.

Respectfully submitted,
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